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Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Minor High School)	File No. SLD-139210
Adamsville, Alabama)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21 ✓
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: July 19, 2000

Released: July 20, 2000

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration an appeal filed by Minor High School (Minor), Adamsville, Alabama, on April 21, 2000, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator).¹ Minor seeks review of SLD's denial of its application for discounted services under the schools and libraries universal service support mechanism. For the reasons set forth below, we deny the Letter of Appeal and affirm SLD's denial of Minor's application.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.² The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library or consortium must seek competitive bids for all services eligible for support.³ An applicant fulfills the competitive bidding requirement by filing with the Administrator a completed FCC Form 470, setting forth the applicant's technological needs and

¹ Letter from Van Phillips, Minor High School, to Federal Communications Commission, filed April 21, 2000 (Letter of Appeal).

² 47 C.F.R. §§ 54.502, 54.503.

³ 47 C.F.R. §§ 54.504, 54.511(c).

the services for which it seeks discounts.⁴ SLD posts an applicant's FCC Form 470 specifying requested services on its web page for 28 days.⁵ The applicant must wait until the close of the 28-day period⁶ and "carefully consider all bids submitted"⁷ prior to signing a contract for eligible services. Once the school or library has contracted for eligible services, it is required to file an FCC Form 471 application to apprise the Administrator of the services that have been ordered, the service provider with whom the school has signed the contract, and an estimate of the funds necessary to cover the discounts to be given for eligible services.⁸ Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the school is eligible.

3. The Commission has repeatedly emphasized the importance of the competitive bidding requirement, stating that it helps to ensure that schools and libraries will receive the lowest possible pre-discount price.⁹ The Commission concluded that competitive bidding is the most efficient means for ensuring both that eligible schools and libraries are informed about the choices available to them and that prices are not unnecessarily high, thereby minimizing the amount of support needed.¹⁰ In adopting this requirement, the Commission established a minimally burdensome means for schools and libraries to inform the public of services they seek and for providers to review and submit bids in response to requests for services.¹¹ In order to permit all interested parties sufficient time to respond to requests for services posted on the SLD web page, the Commission requires all schools and libraries, and consortia including such entities, to wait the requisite 28-day waiting period prior to signing a contract for discounted services or an FCC Form 471.¹²

4. Minor filed a FCC Form 470 that was posted to SLD's website on March 4, 1999.¹³ Based on that posting date, the Commission's rules required that Minor wait until April 1, 1999, before signing its FCC Form 471. On April 2, 1999, Minor submitted a FCC Form 471 bearing a

⁴ 47 C.F.R. §§ 54.504(b)(1), (b)(3).

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. § 54.504(b)(4).

⁷ 47 C.F.R. § 54.511(a).

⁸ 47 C.F.R. § 54.504(c).

⁹ See *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, para. 9 (1997).

¹⁰ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9029, para. 480 (1997), as corrected by *Federal-State Joint Board on Universal Service*, Errata, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *affirmed in part, reversed in part and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC and USA*, 183 F.3d 393 (5th Cir. 1999) (*Universal Service Order*).

¹¹ *Id.* at 9078, para. 575.

¹² *Universal Service Order*, 12 FCC Rcd at 9080, para. 579.

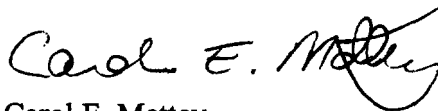
¹³ FCC Form 470 from Minor High School, to Schools and Libraries Division, Universal Service Administrative Co., posted March 4, 1999.

signature date of March 31, 1999.¹⁴ Because Minor signed the FCC Form 471 before the expiration of the 28-day waiting period, SLD denied Minor's request for discounts.¹⁵ SLD later affirmed its initial funding commitment decision and denied an appeal filed by Minor with SLD.¹⁶ In response, Minor filed the instant Letter of Appeal.

5. Upon review of the record, we affirm SLD's decision to deny Minor's request for discounted services. In its Letter of Appeal, Minor argues that, although its FCC Form 471 was signed prior to the close of the 28-day waiting period, Minor did not send its FCC Form 471 to SLD until after the allowable contract date. The FCC Form 471 instructions clearly state, however, that the form cannot be signed until the expiration of the 28-day waiting period.¹⁷ The instructions for the FCC Form 471 state that the date of signature for the FCC Form 471 "CANNOT be earlier than the 29th day following the posting of the associated FCC Form 470 to the [SLD] Web Site."¹⁸ As noted, the purpose of the 28-day waiting period is to ensure that prospective service providers have sufficient time to prepare and submit bids for the services requested in the FCC Form 470. By completing and signing the FCC Form 471 before the waiting period expired, Minor indicated that it had ceased consideration of other providers, thereby undermining the Commission's competitive bidding requirements. The Bureau, therefore, denies Minor's Letter of Appeal.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Letter of Appeal filed on April 21, 2000, by Minor High School, Adamsville, Alabama, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey
Deputy Chief, Common Carrier Bureau

¹⁴ FCC Form 471 from Minor High School, to Schools and Libraries Division, Universal Service Administrative Co., filed April 2, 1999.

¹⁵ Letter from Schools and Libraries Division, Universal Service Administrative Co., to Bobby Hill, Minor High School, dated August 31, 1999.

¹⁶ Letter from Schools and Libraries Division, Universal Service Administrative Co., to Bobby Hill, Minor High School, dated March 29, 2000 (Administrator's Decision on Appeal).

¹⁷ FCC Form 471 Instructions, at 24.

¹⁸ Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (December 1998) at 24 (FCC Form 471 Instructions).